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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,035	07/01/2003	Steven R. Levine	30412/30002A	5843

7590 07/07/2005

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EXAMINER

COHEN, AMY R

ART UNIT PAPER NUMBER

2859

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,035

Applicant(s)

LEVINE, STEVEN R.

Examiner

Amy R. Cohen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/13/05; 4/6/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 9 and 24 are objected to because of the following informalities:

Claim 9, lines 1-2 "the bottom surface" lacks antecedent basis in the claims.

Claim 24, line 2 "a base should read --the base--; line 7 "a leveling device" should read --the leveling device-- in order to be consistent with claim language.

Claim 24, line 6 "the first device" should read --the first surface--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 7, 8, 13, 14, 18, 20, 23-25, 27, 29, 30-36, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Wedemayer (U. S. Patent No. 5,575,073).

Claims 1, 3, 4, 7, 8: Von Wedemayer teaches a base (10) for a light generating device (20) or a leveling device (20), comprising: a first surface (top of 1) that comprises a connection structure (8 is magnetic, therefore it is a connection structure, also connection structures 9 and 4 (Fig. 1) and 11 and 12 (Fig. 3)) to removably receive and mount either a light generating device (20) or a leveling device (20) thereto (Figs. 1 and 3); and a second surface (bottom of 2) comprising a nonmechanical attachment structure (6, Col 3, lines 11-14).

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Von Wedemayer teaches the base comprising an outer portion (outside surfaces/perimeter of 1) that includes a bottom surface (Fig. 1) and an inner portion (3) movably mounted to the outer portion (Col 3, lines 6-10).

Von Wedemayer teaches the base comprising a retainer (5) and a fastener (4) for joining the outer and inner portions (Col 3, lines 1-5).

Von Wedemayer teaches the base wherein the connection structure is selected from the group consisting of a magnet (Col 3, lines 15-17), a magnetically attractive material (Col 3, lines 15-17), a hook fastener, a loop fastener, a tab, a slot a flat surface (Col 3, lines 15-17), and a latch.

Von Wedemayer teaches the base wherein the connection structure comprises a recess (Fig. 1, where pivot pin 9 passes, Fig. 3, depression 11).

Claims 13, 14, 18, 20, 23: Von Wedemayer teaches a light generating device (Figs. 1-3) with a base, comprising: a base (1) comprising: a first surface (8) that comprises a connection structure; and a second surface comprising a nonmechanical attachment structure (3, end of screws 3 are attached to the upper surface of 2); and a light generating device (20) removably mounted to the first surface via the connection structure (connection structure 8 is a magnet, level 20 is removably attracted to surface 8, Figs. 1 and 3).

Von Wedemayer teaches the device wherein the light generating device generates a laser beam (Col 3, lines 65-67).

Von Wedemayer teaches the device wherein the light generating device comprises a retractable pin (9, 26) and an actuator for the pin (Figs. 1 and 3, the user is the actuator for pin 9 and the spring is the actuator for pin 26).

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Von Wedemayer teaches the device wherein the connection structure is selected from the group consisting of a hook fastener, a loop fastener, a tab, a slot, a flat surface (Col 3, lines 15-17), and a latch, herein the light generating device further comprises a structure mating with the connection structure (Col 3, lines 15-38).

Von Wedemayer teaches the device wherein the connection structure comprises a magnet or a material that is magnetically attractive to a magnet (Col 3, line 15-17).

Claims 24, 25, 27, 29, 30: Von Wedemayer teaches a leveling device (20) with a base (10), comprising: a base (10) comprising: a first surface (top of 1) that comprises a connection structure (8); and a second surface (bottom of 2) that comprises a nonmechanical attachment structure (6); and a leveling device (20) removably mounted to the first device via the connection structure.

Von Wedemayer teaches the device wherein the leveling device comprises a retractable pin (9, 26) and an actuator for the pin (Figs. 1 and 3, the user is the actuator for pin 9 and the spring is the actuator for pin 26).

Von Wedemayer teaches the device wherein the connection structure is selected from the group consisting of a magnet (Col 3, lines 15-17), a magnetically attractive material (Col 3, lines 15-17), a hook fastener, a loop fastener, a tab, a slot, a flat surface (Col 3, lines 15-17), and a latch.

Von Wedemayer teaches the device wherein the connection structure comprises a recess (Fig. 1, at pin 9).

Von Wedemayer teaches the device wherein the connection structure comprises a magnet (Col 3, lines 15-17) or a material that is magnetically attracted to a magnet (Col 3, lines 15-17).

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Claims 31-36, 41: Von Wedemayer teaches a movable base (10) for a light generating device (20) or a leveling device (20), comprising: a first portion (1) that comprises a connection structure (9, 12, 26) to removably receive and mount either a light generating device (20) or a leveling device (20) thereto; and a second portion (2) movably mounted to the first portion.

Von Wedemayer teaches the base wherein the second portion is swivably mounted to the first portion (Figs. 1-3, Col 3, lines 1-10).

Von Wedemayer teaches the base wherein the connection structure comprises a recess (Figs. 1 and 3).

Von Wedemayer teaches the base wherein the connection structure comprises a material (12) that is magnetically attracted to the light generating device or leveling device being mounted to the first portion (Figs. 1 and 3).

Von Wedemayer teaches the base wherein the connection structure comprises a curved inner surface and the second portion comprises a curved outer surface that receives the connection structure (Figs. 1-3).

Von Wedemayer teaches the base comprising a retainer (5) and a fastener (4) for joining the first and second portions.

Von Wedemayer teaches the base wherein the connection structure is selected from the group consisting of a magnet (12), a magnetically attractive material, a hook fastener, a loop fastener, a tab, a slot, a flat surface (Figs. 1 and 3), a recess (Figs. 1 and 3), and a latch.

4. Claims 1, 2, 9, 24, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwandt (U. S. Patent No. 5,063,679).

Claims 1, 2, 9: Schwandt teaches a base (28) for a light generating device or a leveling device (14), comprising: a first surface (32a) that comprises a connection structure (52) to

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removably receive and mount either a light generating device or a leveling device (14) thereto (Col 5, lines 15-20); and a second surface (32b) comprising a nonmechanical attachment structure (63).

Schwandt teaches the base wherein the nonmechanical attachment structure comprises an adhesive (63).

Schwandt teaches the base wherein the adhesive protrudes from the bottom surface (Fig. 11).

Claims 24, 26: Schwandt teaches a leveling device with a base, comprising: a base (28) comprising: a first surface (32a) that comprises a connection structure (52); and a second surface (32b) comprising a nonmechanical attachment structure (63); and a leveling device (14) removably mounted to the first surface via the connection structure (Col 5, lines 11-20).

Schwandt teaches the device wherein the nonmechanical attachment structure is an adhesive (63).

Schwandt teaches the device wherein the leveling device comprises a latch (50) that engages the connection structure (Fig. 3).

5. Claims 1, 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Lagasse (U. S. Patent No. 3,909,952).

Lagasse teaches a base for a light generating device or a leveling device, comprising: a first surface (78) that comprises a connection structure (whole where 70 runs through) to removably receive and mount either a light generating device (16) or a leveling device thereto; and a second surface (12) comprising a nonmechanical attachment structure (slot 42).

Lagasse teaches the base comprising an outer portion (46) that includes a bottom surface (Fig. 2), and an inner portion (48) movably mounted to the outer portion (Fig. 3).

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Lagasse teaches the base comprising a retainer (whole for 76) and a fastener (76) for joining outer and inner portions (Fig. 2).

Lagasse teaches the base wherein the outer portion comprises a curved inner surface (at 72), and the inner portion comprises a curved outer surface (at 80) that receives the connection structure (Figs. 1, 2, 4, 5).

Lagasse teaches the base wherein the curved outer surface is swivably mounted to the curved inner surface (Fig. 3).

6. Claims 13, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Webb (U. S. Patent No. 6,167,630).

Webb teaches a light generating device with a base, comprising: a base (11) comprising: a first surface that comprises a connection structure (24, 25); and a second surface (49) comprising a nonmechanical attachment structure (62); and a light generating device removably mounted to the first surface via the connection structure (Figs. 1 and 4).

Webb teaches the device wherein the light generating device comprises a latch (21, 22, 23) that engages the connection structure (Figs. 1 and 4).

Webb teaches the device wherein the connection structure comprises a latch (24').

7. Claims 59 and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by Plumb et al. (U. S. Patent No. 6,133,996).

Plumb et al. teaches a kit (72) for a leveling device with a base comprising: a container defining a volume of space (72, Fig. 7); a base (51) positioned within the volume of space, the base comprising: a first surface that comprises a connection structure (connection structure and first surface are seen in Fig. 1, wherein the laser assembly is 50, and the laser 58 is removably attached to 50/51); and a second surface comprising a nonmechanical attachment structure (seen

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at connection between 51 and 32); and a leveling device (58) positioned within the volume of space so as to be unattached to the base (Fig. 7), wherein the connection structure can be used to removably mount the leveling device to the first surface (Col 5, lines 30-59).

Plumb et al. teaches the kit wherein the leveling device further comprises an automatic leveler selected from the group consisting of a pendulum (60, Col 5, lines 41-59), a cantilevered tilt mechanism, an electronic leveler, and a shaft held between journals.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Wedemayer in view of Goodrich et al. (U. S. Patent No. 6,502,319).

Von Wedemayer discloses the device as described above in paragraph 3 and wherein the light generating device (20) comprises a housing with at least one flat surface (24) extending along a first planar surface (24, Fig. 1).

Von Wedemayer does not disclose the device wherein the light generating device generates a laser beam with an asymmetric intensity; wherein the light generating device generates light in the shape of a fan; wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle.

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Goodrich et al. discloses a light generating device (22) wherein the light generating device generates a laser beam (26) with an asymmetric intensity (26, Figs. 8-11); wherein the light generating device generates light in the shape of a fan (26, Figs. 8-11); wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle (Figs. 8-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Von Wedemayer to have the light generating device emit a laser beam in the shape of a fan, as taught by Goodrich et al., in order to produce a highly visible continuous line focused on a long axis perpendicular to the surface on which the device is placed (Goodrich et al., Col 2, lines 40-62).

10. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwandt in view of Kreckel et al. (U. S. Patent No. 5,516,581).

Schwandt discloses the base as described above in paragraph 4 and wherein the adhesive is removable (Col 5, lines 21-39).

Schwandt does not disclose the base wherein the adhesive comprises a liner; wherein the adhesive is a removable pressure sensitive adhesive comprising; an inner portion attached to the second surface and an outer portion releasably attached to the inner portion; comprising a second adhesive.

Kreckel et al. discloses an adhesive (30) comprises a liner (38); wherein the adhesive is a removable pressure sensitive adhesive (Col 3, lines 35-61) comprising; an inner portion (34) attached to the second surface and an outer portion (36) releasably attached to the inner portion; comprising a second adhesive (34, 36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Schwandt to specify a removable pressure sensitive adhesive, as

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taught by Kreckel et al., so that the base could be releasably secured to a surface without causing damage to the surface while maintaining a high adhesive strength (Kreckel et al., Col 3, lines 35-61).

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Webb in view of Schwandt.

Webb discloses the device as described above in paragraph 6.

Webb does not disclose the device wherein the nonmechanical attachment structure is an adhesive.

Schwandt discloses a device wherein a nonmechanical attachment structure is either a magnet (54) or an adhesive (63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Webb to include a nonmechanical attachment structure of an adhesive, as taught by Schwandt, since Schwandt teaches that a magnet and an adhesive are each desirable nonmechanical attachment structures (Schwandt, Col 5, lines 21-39).

12. Claims 31, 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwandt in view of Berndt (U. S. Patent No. 4,208,802).

Schwandt discloses a movable base (28) for a light generating device or a leveling device, comprising a first portion (30) that comprises a connection structure (34, 12, 14) to receive and mount either a light generating device or a leveling device (16) thereto; and a second portion (32) movably mounted to the first portion.

Schwandt discloses the base wherein the second portion includes an attachment structure (63) for attaching the base to a surface, the attachment structure comprising an adhesive (63).

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Schwandt discloses the base wherein the adhesive protrudes from the second portion (Fig. 11).

Schwandt does not disclose the base wherein the level is removably attached; wherein the adhesive is specifically a removable pressure sensitive adhesive; comprising a liner.

Berndt discloses a base (10) wherein the level is removably attached (level tube 12 held by dimples 22a); wherein the adhesive is specifically a removable pressure sensitive adhesive (Col 2, lines 59-64); comprising a liner (29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Schwandt to include removably attaching the level and a pressure sensitive adhesive with a liner, as taught by Berndt, so that the level could be easily replaced if broken and so that the adhesive would readily bond to surfaces by pressure on the adhesive.

13. Claims 48, 49, 53, 55, 57-60, 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Wedemayer in view of Whicker, Jr. (U. S. Patent No. 5,832,867).

Claims 48, 49, 53, 55, 57, 58: Von Wedemayer discloses a kit for a light generating device with a base comprising: a base (10) comprising: a first surface (top of 1) that comprises a connection structure (8, Col 3, lines 15-17)); and a second surface (bottom of 2) comprising a nonmechanical attachment structure (6); and a light generating device (20), wherein the connection structure can be used to removably mount the light generating device to the first surface (Col 3, lines 15-38).

Von Wedemayer discloses the kit wherein the light generating device generates a laser beam (Col 3, lines 65-67).

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Von Wedemayer discloses the kit wherein the light generating device further comprises a retractable pin (9, 26) and an actuator for the pin (Figs. 1 and 3, the user is the actuator for pin 9 and the spring is the actuator for pin 26).

Von Wedemayer discloses the kit wherein the connection structure is selected from the group consisting of a hook fastener, a loop fastener, a tab, a slot, a flat surface (Col 3, lines 15-17), and a latch.

Von Wedemayer discloses the kit wherein the connection structure comprises a magnet (Col 3, lines 15-17).

Von Wedemayer discloses the kit wherein the connection structure comprises a material that is magnetically attracted to the light generating device (Col 3, lines 15-17).

Von Wedemayer does not disclose the kit comprising a container defining a volume of space wherein the base is positioned within the volume of space and the light generating device is positioned within the volume of space so as to be unattached to the base.

Whicker, Jr. discloses a kit (Figs. 7, 8, 10, 11) for a direction indicator comprising a container (26) defining a volume of space (Figs. 7, 8, 10, 11) wherein components of the direction indicator which are removably attached, are positioned within the volume of space so as to be unattached to each other (Figs. 7, 8, 10, 11, Col 5, lines 8-39, Col 6, lines 4-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Von Wedemayer to provide container defining a volume of space in which the light generating device and the base are positioned, as taught by Whicker, Jr., so that all of the components of the kit could be stored within a container, so that the user would not lose any of the components.

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Claims 59, 60, 62: Von Wedemayer discloses a kit for a leveling device with a base comprising: a base (10) comprising: a first surface (top of 1) that comprises a connection structure (8, Col 3, lines 15-17)); and a second surface (bottom of 2) comprising a nonmechanical attachment structure (6); and a leveling device (20), wherein the connection structure can be used to removably mount the leveling device to the first surface (Col 3, lines 15-38).

Von Wedemayer discloses the kit wherein the light generating device further comprises a retractable pin (9, 26) and an actuator for the pin (Figs. 1 and 3, the user is the actuator for pin 9 and the spring is the actuator for pin 26).

Von Wedemayer discloses the kit wherein the connection structure is selected from the group consisting of a magnet (Col 3, lines 15-17), a magnetically attractive material (Col 3, lines 15-17), a hook fastener, a loop fastener, a tab, a slot, a flat surface (Col 3, lines 15-17), and a latch.

Von Wedemayer does not disclose the kit comprising a container defining a volume of space wherein the base is positioned within the volume of space and the leveling device is positioned within the volume of space so as to be unattached to the base.

Whicker, Jr. discloses a kit (Figs. 7, 8, 10, 11) for a direction indicator comprising a container (26) defining a volume of space (Figs. 7, 8, 10, 11) wherein components of the direction indicator which are removably attached, are positioned within the volume of space so as to be unattached to each other (Figs. 7, 8, 10, 11, Col 5, lines 8-39, Col 6, lines 4-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Von Wedemayer to provide container defining a volume of space in which the leveling device and the base are positioned, as taught by Whicker, Jr., so that all of

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the components of the kit could be stored within a container, so that the user would not lose any of the components.

14. Claims 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Wedemayer and Whicker, Jr. as applied to claims 48, 49, 53, 55, 57, 58 above, and further in view of Goodrich et al.

Von Wedemayer and Whicker, Jr. disclose the device as described above in paragraph 13 and wherein the light generating device (20) comprises a housing with at least one flat surface (24) extending along a first planar surface (24, Fig. 1).

Von Wedemayer and Whicker, Jr. do not disclose the device wherein the light generating device generates a laser beam with an asymmetric intensity; wherein the light generating device generates light in the shape of a fan; wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle.

Goodrich et al. discloses a light generating device (22) wherein the light generating device generates a laser beam (26) with an asymmetric intensity (26, Figs. 8-11); wherein the light generating device generates light in the shape of a fan (26, Figs. 8-11); wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle (Figs. 8-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Von Wedemayer and Whicker, Jr. to have the light generating device emit a laser beam in the shape of a fan, as taught by Goodrich et al., in order to produce a highly visible continuous line focused on a long axis perpendicular to the surface on which the device is placed (Goodrich et al., Col 2, lines 40-62).

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15. Claims 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb in view Shiao (U. S. Patent No. 6,012,229) and in view of Hamerski et al. (U. S. Patent No. 6,499,707).

Webb discloses a method of aligning objects on a surface, the method comprising: inserting a light generating device (18) into a movable base (11, 12), the movable base comprising an outer portion (12) that comprises a connection structure to receive and mount the light generating device (Fig. 1, Col 3, lines 10-25) thereto and an inner portion (11) that comprises an attachment structure (62), the inner portion movably mounted to the outer portion (Col 3, lines 10-20); attaching the light generating device and movable base to a surface with an attachment means (Col 4, lines 42-47); orienting the light generating device in at least one plane using at least one bubble level (54, 55, 56) and a movable feature on the light generating device (Col 4, lines 25-47); and aligning at least one object on the surface (Fig. 6).

Webb does not disclose the method wherein the light generating device is removably held by the connection structure.

Shiao discloses a method wherein the light generating device (20) is removably held by the connection structure (Col 2, lines 56-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Webb to have the light generating device be removably held, as taught by Shiao, so that the light generating device could be replaced if broken.

Webb does not disclose the method wherein the attachment means comprise an adhesive; wherein the adhesive is a removable pressure sensitive adhesive; comprising removing the light generating device and the base from the surface and discarding the adhesive.

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Hamerski et al. discloses a method of aligning objects on a surface comprising removing the device and the base from a surface and discarding the adhesive (Col 4, line 56-Col 5, line 19 and lines 43-50, wherein when the adhesive is no longer desired, one would discard the adhesive since it is removed from both the base and the surface).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Webb to have the attachment means as an adhesive removable from both the surface and the base and to discard the adhesive, as taught by Hamerski et al., in order to protect the base and surface by using adhesive which is removable from both surfaces and replaceable if the adhesive no longer has strong adhesion.

16. Claims 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwandt in view of Berndt and in view of Hamerski et al.

Schwandt discloses a method of aligning objects on a surface (Col 1, lines 35-41), the method comprising: inserting a leveling device (16) in a movable base (28), the movable base comprising an outer portion (30) that comprises a connection structure (34, 12, 18) to receive and mount the leveling device thereto and an inner portion (32) that comprises an attachment structure (63), the inner portion movably mounted to the outer portion (Col 4, lines 51-67); attaching the leveling device and movable base to a surface with an adhesive (Col 5, lines 21-39); orienting the leveling device in at least one plane using at least one bubble level (14) and a movable feature on the leveling device (Col 3, line 34-66); and aligning at least one object on the surface (Col 1, lines 35-41).

Schwandt does not disclose the method of aligning objects on a surface wherein the leveling device is removably received and mounted.

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Berndt discloses a base (10) wherein the level is removably attached (level tube 12 held by dimples 22a); wherein the adhesive is specifically a removable pressure sensitive adhesive (Col 2, lines 59-64); comprising a liner (29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Schwandt to include removably attaching the level and a pressure sensitive adhesive with a liner, as taught by Berndt, so that the level could be easily replaced if broken and so that the adhesive would readily bond to surfaces by pressure on the adhesive.

Schwandt does not disclose the method of aligning objects on a surface comprising removing the leveling device and the base from a surface and discarding the adhesive.

Hamerski et al. discloses a method of aligning objects on a surface comprising removing the device and the base from a surface and discarding the adhesive (Col 4, line 56-Col 5, line 19 and lines 43-50, wherein when the adhesive is no longer desired, one would discard the adhesive since it is removed from both the base and the surface).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Schwandt to have the adhesive removable from both the surface and the base and to discard the adhesive, as taught by Hamerski et al., in order to protect the base and surface by using adhesive which is removable from both surfaces and replaceable if the adhesive no longer has strong adhesion.

17. Claims 59, 61, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwandt in view of Hall et al. (U. S. Patent No. 4,663,856).

Schwandt discloses kit for a leveling device with a base comprising: a base comprising: a first surface (32a) that comprises a connection structure (52); and a second surface (32b)

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comprising a nonmechanical attachment structure (63); and a leveling device (14) wherein the connection structure can be used to removably mount the leveling device to the first surface (Col 5, lines 11-20); wherein the nonmechanical attachment structure is an adhesive (63); wherein the leveling device comprises a latch (50) that engages the connection structure (Fig. 3).

Schwandt does not disclose a kit comprising a container defining a volume of space; wherein the base and the leveling device are positioned within the volume of space so as to be unattached to each other.

Hall et al. discloses a kit (10) comprising a container (11) defining a volume of space (Fig. 1); wherein the base (14) and the leveling device (12) are positioned within the volume of space so as to be unattached to each other (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Schwandt to provide container defining a volume of space in which the leveling device and the base are positioned, as taught by Hall et al., so that all of the components of the kit could be stored within a container, so that the user would not lose any of the components.

Response to Arguments

18. Applicant's arguments with respect to claims 1-12, 14-17, 19-22, 26, 27, 28, 29, 40, 42-64 have been considered but are moot in view of the new ground(s) of rejection.

19. Applicant's arguments filed April 6, 2005 regarding claims 13, 18, 23-25, 30-36, 41 have been fully considered but they are not persuasive.

Regarding Applicant's arguments that Von Wedemayer does not disclose a connection structure because the flat surface 8 does not constitute a connection structure, Examiner

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disagrees on two counts. First, Examiner notes that the flat surface 8 is magnetic since the upper plate 1 is magnetic (Col 3, lines 15-17), therefore, the limitation that the connection surface be magnetic or of a magnetically attractive material as in claims 7, 23, 27, 30, 34, 41, 57, 58, and 62. Secondly, claims 7, 20, 27, 41, 55, and 62 all claim that the connection structure is selected from a group which includes a flat surface so clearly a flat surface is considered by the Applicant to be a connection structure.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
July 1, 2005



Christopher Fulton
Primary Examiner
Tech Center 2800